

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

V.

MIGUEL ANGEL TRUJILLO,

Defendant.

NO: 2:18-CR-0072-TOR

ORDER DENYING MOTION FOR RECONSIDERATION

BEFORE THE COURT is the United States' Motion for Reconsideration

13 | (ECF No. 58). The motion was submitted for consideration without oral argument.

14 Having reviewed the file and the records therein, the Court is fully informed.

15 For the following reasons, the motion is **denied**.

16 The United States seeks reconsideration of the Court's Order of Dismissal

17 contending that Defendant's sentence, which includes *a term of community*

18 *custody*, can make an offense punishable by more than one year of imprisonment.

19 18 U.S.C. § 922(g) prohibits possession of any firearm or ammunition by

20 any person "who has been convicted in any court of a crime punishable by

1 imprisonment for a term exceeding one year[.]” Previously, courts interpreted that
2 phrase to refer to the statutory maximum for the underlying offense. *See e.g.*,
3 *United States v. Murillo*, 422 F.3d 1152 (9th Cir. 2005). *United States v. Valencia-*
4 *Mendoza*, 912 F.3d 1215 (9th Cir. 2019), however, now defines “punishable by” as
5 the sentence to which the defendant **is actually exposed** under Washington’s
6 mandatory sentencing scheme, overruling *Murillo*. *See United States v. McAdory*,
7 935 F.3d 838, 840 (9th Cir. 2019).

8 Here, the parties do not dispute that Defendant was only exposed to a
9 maximum of 30 days in jail under Washington’s mandatory sentencing scheme for
10 each of his two prior offenses. *See* ECF Nos. 46-1 at 3; 46-2 at 3. It matters not
11 that Defendant could hypothetically commit a future violation of supervision and
12 then be exposed to 30 days in jail, or that this might occur a dozen times while
13 under supervision and thereby expose him to a total of over one year in jail. While
14 this Court did not explicitly reject this contingent argument, it does so now.

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1 **ACCORDINGLY, IT IS HEREBY ORDERED:**

2 The United States' Motion for Reconsideration (ECF No. 58) is **DENIED**.

3 The District Court Clerk is hereby directed to enter this Order and provide
4 copies to counsel.

5 DATED October 4, 2019.



6 A handwritten signature in blue ink that reads "Thomas O. Rice".
7 THOMAS O. RICE
8 Chief United States District Judge